

Statutory Review of LTBB Tribal Code for Environmental Protection and Proposed  
Environmental Protection Legislation (March 2013)

**Current**

Title IV – Natural Resources

Chapter 1. Fishing Rules and Regulations

Chapter 2. LTBB Off-Reservation (Ceded Territory, Hunting, Fishing and Gathering)

Chapter 3. Natural Resources Regulations for the LTBB Reservation

~~Chapter 4. Wetland Protection and Management~~

Chapter 5. Natural Resources Commission

Chapter 6. Protection of Great Lakes – can stay here, but referred to in EP section.

~~Chapter 7. Solid Waste Disposal~~

Chapter 8. Conservation and Cultural Preservation Easement Act – can stay here, but referred to in EP section.

Chapter 9. Fishing Vessel Safety

Chapter 10. Act Prohibiting the Patenting of Organisms

Chapter 11. Natural Resource Protection

**Proposed**

Article II under Natural Resources (above)

-OR- Title [insert #]. Environmental Protection

Chapter 1. Environmental Protection

Chapter 2. Environmental Commission

Chapter 3. Environmental Department

Chapter 4. Wetland Protection and Management

Chapter 5. [Reserved – for Water Quality and Pollution Control – coming soon!]

Chapter 6. Solid Waste Disposal [and Recycling](and maybe hazardous waste too? TBD)

Chapter 7. [Air Quality]

Chapter 8. [Environmental Review and Standards](part of brownfields, may need to be under Planning and Zoning instead) – Christina Coger Commented 10/31/13 3:11 pm items in this bracket indicate possible future ideas/brainstorming]

**WAGANAKISING ODAWAK STATUTE #  
ENVIRONMENTAL PROTECTION**

**CHAPTER 1. ENVIRONMENTAL PROTECTION**

**SECTION I. LEGISLATIVE FINDINGS AND PURPOSE.**

The Odawa people traditionally relied on the Great Lakes, inland lakes, streams, rivers, and wetlands as the way of life for centuries. We maintain a cultural and subsistence relationship with Mother Earth and her resources. To continue this way of life, and to protect the health and welfare of the Odawa people, the quality and protection of the land, waters and air needs to be maintained and improved now and for the next seven generations. The (Little Traverse Bay

1 Bands of Odawa Indians) LTBB Tribal Council hereby establishes the power of the Tribe to  
2 enact environmental legislation and the jurisdiction of the Tribe to enforce such legislation.  
3  
4

## 5 **SECTION II. DEFINITIONS** – [Christina Coger commented – needs review] 6

- 7 **A. “Ceded Territory”** means all lands and waters ceded in the 1836 Treaty of Washington,  
8 7 Stat. 491, as described in Article First, that are not LTBB Reservation lands or within  
9 the reservation of another federally recognized Tribe.  
10  
11 **B. “Commission”** or **“EC”** means the Environmental Commission.  
12  
13 **C. “Commissioner”** means any of the up to five (5) individuals appointed to the  
14 Environmental Commission.  
15  
16 **D. “Department”** or **“EPD”** means the Environmental Protection Department.  
17  
18 **E. “Director”** means the director of the Environmental Protection Department.  
19  
20 **F. “Executive”** means the Tribal Chairperson and Vice-Chairperson of the Executive  
21 Branch created under Article VIII of the Constitution, including their designees.  
22  
23 **G. “LTBB”** means the Little Traverse Bay Bands of Odawa Indians.  
24  
25 **H. “LTBB Reservation”** or **“Reservation”** means all lands and waters as described in the  
26 LTBB Constitution Article III (H).  
27  
28 **I. “Trust Properties”** means land held in trust for LTBB by the United States.  
29  
30 **J. “Tribe”** or **“LTBB”** means the Waganakising Odawa, also known as the Little Traverse  
31 Bay Bands of Odawa Indians.  
32  
33 **K. “Tribal Citizen”** means an enrolled member of LTBB.  
34  
35 **L. “Tribal Council”** means the elected governing body of the Little Traverse Bay Bands of  
36 Odawa Indians.  
37  
38 **M. “WOTCL”** means Waganakising Odawak Code of Law.  
39  
40

## 41 **CHAPTER 2. ENVIRONMENTAL COMMISSION** 42

### 43 **SECTION I. PURPOSE AND GENERAL PROVISIONS** 44

45 The Little Traverse Bay Bands of Odawa has determined that it is in the best interests of  
46 its members to protect, restore, and regulate the environment within its jurisdiction in order to

1 promote, honor and respect our traditional, spiritual and physical relationship with the land and  
2 waters, and the environmental resources on, above, below and within the land and waters. The  
3 purpose of this statute is to create the Environmental Commission consistent with Article VII,  
4 D.16, and define its powers, authority and duties to ensure the protection and management of our  
5 environment.  
6  
7

## 8 **SECTION II. CREATION OF THE ENVIRONMENTAL COMMISSION**

9

10 The Tribal Council hereby creates the Environmental Commission and it shall be  
11 composed of not more than (5) Commissioners within the Executive Branch.  
12  
13

## 14 **SECTION III. APPOINTMENT OF COMMISSIONERS**

15

16 **A. Appointments of Commissioners.** Members of the Commission shall be Tribal Citizens  
17 at least eighteen years of age as nominated by the Executive and appointed by the Tribal  
18 Council.  
19

20 **B. Terms.** Three (3) members of the Commission shall be initially appointed to serve for  
21 three (3) year terms and two (2) members shall be appointed for two (2) year terms.  
22 Members shall be appointed for three (3) year terms thereafter. Members may be  
23 reappointed for additional terms without limitation.  
24

### 25 **C. Officers**

26

27 **1.** The Commissioners shall appoint from among themselves one of the  
28 Commissioners to serve as Chairperson, one of the Commissioners to serve as  
29 Vice-Chairman, and another as Secretary/Treasurer for a two-year term. There  
30 shall be no limit on the number of terms a Chairperson, Vice-Chairman, or  
31 Secretary/Treasurer may serve.  
32

33 **2.** A Commissioner shall not be the Chairperson or Chair a meeting if the  
34 Department Director, assistant director, co-director, Tribal Chairperson, Tribal  
35 Vice-Chairman, Legislative Leader or Tribal Chief Judge is an immediate family  
36 member.  
37

38 **D. Compensation and Travel.** Compensation for participation in regular and special  
39 meetings, as well as travel related to the duties and authorities outlined in Section 5 may  
40 be allowable consistent with WOTCL Title VI, Chapter 4.  
41

42 **E. Oath of Office.** Upon appointment, the Tribal Court shall administer the oath of office to  
43 the members of the Commission which oath of office shall include a commitment to  
44 uphold the Constitution and laws of the LTBB and to perform faithfully and diligently the  
45 duties and responsibilities set forth in this statute, and any other mandates to uphold

1 environmental protection or enforce environmental regulation as adopted by Tribal  
2 Council.

3  
4 **F. Vacancies.** In the event a vacancy occurs in the Commission, by virtue of death,  
5 resignation or removal, the Tribal Council shall appoint a qualified Tribal Citizen to fill  
6 the remaining term of office as nominated by the Executive.

7  
8 **G. Removal.** Commissioners may be removed in accordance with WOTCL Title VI,  
9 Chapter 5.

10  
11 **H. Ethics.** Commissioners shall follow Constitutionally Mandated Rules of Conduct for  
12 Officials of Tribal Government or any other approved ethical standards. In addition, the  
13 Commissioners shall not participate in making any decision that involves a personal or  
14 financial interest of the member of his or her immediate family unless such interest is  
15 held in common with the Tribe and its members.

16  
17  
18 **SECTION IV. DUTIES AND AUTHORITIES OF THE ENVIRONMENTAL**  
19 **COMMISSION**

20  
21 **A.** The primary purpose of the Environmental Commission is to preserve, protect and  
22 enhance the environment within LTBB jurisdiction and the Ceded Territory through  
23 monitoring environmental resources, monitoring and deterring impacts to the  
24 environment, promulgating regulations that are consistent with the wise use of the  
25 resources, and serving as the Board of Appeals for permit decisions by the ESD. The  
26 Commission shall promulgate rules and regulations for protection of all lands, air, and  
27 water resources for the lands and waters within the boundary established by the Treaty of  
28 1855. The Natural Resources Commission also has the responsibility of promulgating  
29 rules and regulations necessitated by future statutes adopted by the Tribal Council  
30 pertaining to the environment. All rules and regulations promulgated and adopted in  
31 accordance with this statute shall have the effect of law.

32  
33 **B.** The Environmental Commission shall have the following additional duties and  
34 authorities:

35  
36 **1.** To issue orders and directives consistent with the WOTCL and to take any and all  
37 steps necessary, consistent with WOTCL, to carry out the purposes set forth in  
38 subsection (A) of this Section.

39  
40 **2.** When expressly authorized by Tribal Council action, to enter into contracts of all  
41 types with agencies of Federal, State, local or other Tribal governments, with  
42 private parties, including individuals, partnerships, corporations or other  
43 enterprises.  
44

- 1       **3.**     To serve as the Board of Appeals for permits authorized by this or subsequent  
2           environmental statutes and the aforementioned mandates in subsection (A) of this  
3           Section addressing the protection of the air, land and water resources of LTBB.  
4
- 5       **4.**     Take or enact emergency measures in order to preserve or protect the land, air,  
6           and water resources of the Tribe or its members. This may include but not be  
7           limited to issuing emergency permits, revoking existing permits, and/or  
8           responding to environmental contamination posing an immediate threat to human  
9           health or the environment. The NRC may take this action at any regularly  
10          scheduled meeting, by special meeting or phone poll, consistent with Section 5 of  
11          this statute. Emergency enactment shall require a unanimous vote of all sitting  
12          Environmental Commissioners and shall not conflict with any governing court  
13          order or other statutory authorities.  
14
- 15       **5.**     To develop and adopt rules of procedures for the conduct of Commission  
16           business, consistent with WOTCL and subject to approval of Tribal Council.  
17
- 18   **C.**     The Chairman of the Environmental Commission shall have the following powers and  
19           authority:  
20
- 21       **1.**     To chair meetings of the Environmental Commission.  
22
- 23       **2.**     To act in all respects on behalf of the Environmental Commission, subject,  
24           however, to ratification by the Environmental Commission on any action taken.  
25
- 26       **3.**     To represent the Environmental Commission, whenever it is appropriate for the  
27           Environmental Commission to be represented.  
28
- 29       **4.**     To serve on other boards or commissions as a representative of the Environmental  
30           Commission.  
31
- 32       **5.**     To delegate to the Vice-Chairman or other Commissioners any of the duties and  
33           responsibilities of the Chairman.  
34
- 35       **6.**     To exercise any other authority delegated to the Chairman by statute or by action  
36           of the Tribal Council.  
37  
38

## 39   **SECTION V.           MEETINGS, SPECIAL MEETINGS AND PHONE POLLS**

- 40
- 41   **A.**     Regular scheduled shall be held to conduct business and review permit applications  
42           (when applicable) at least monthly.  
43
- 44   **B.**     Special meetings of the Commission shall be held as needed upon the directive of the  
45           Chairman or any two (2) Commissioners upon receipt of a five (5) day notice in writing.  
46

- 1 C. The Commission Secretary/Treasurer or designee may authorize in writing the  
2 Environmental Director to conduct a phone poll as allowed by applicable law. All phone  
3 polls will be entered into the public record at the next regular meeting.  
4
- 5 D. All meetings and phone polls are must be conducted in accordance with WOTCL Title  
6 VI, Chapter 10 and the following:  
7
- 8 1. All meetings shall be open to all members of the Little Traverse Bay Bands of  
9 Odawa Indians; however, the Chairman or a majority of the present  
10 Commissioners may direct all or a portion of a regular or special meeting to be  
11 conducted in closed session when necessary to deal with personnel issues or to  
12 discuss any legal matters.  
13
- 14 2. Minutes of all regular and special meetings of the Commission shall be  
15 transcribed, kept on permanent file in the Environmental Department office, and  
16 be available for inspection by any Tribal Citizen and in accordance with rules and  
17 procedures developed by the Tribal Council.  
18  
19

## 20 CHAPTER 3. ENVIRONMENTAL PROTECTION DEPARTMENT 21

22 The Environmental Protection Department for the Tribe is hereby created as an Executive  
23 Department. The Department falls under the purview of Executive oversight and has the  
24 following duties and powers:  
25

- 26 A. Preserve, promote and protect the environment of the tribe now and for the next  
27 seven generations through management, monitoring, research, restoration, and  
28 permitting activities;  
29
- 30 B. Administer and ensure compliance with Tribal and federal environmental statutes,  
31 regulations and laws, including co-administration with applicable laws under Title  
32 IV;  
33
- 34 C. Coordination of the enforcement of Tribal environmental statutes, regulations,  
35 and laws consistent with the authorities established in Title [insert # of this  
36 statute];  
37
- 38 D. Issue permits and collect permit fees for reviewing, implementing and enforcing  
39 the terms and conditions of permits (not including any court costs or other costs  
40 associated with any enforcement action).  
41
- 42 E. Represent the Tribe and its environmentally-related interests on international,  
43 federal, tribal, state and inter-agency environmental related boards, commissions,  
44 or organizations with the direction or concurrence of the Executive;  
45

- 1       **F.**     Recommend to the EC and Executive Branch, policies and long range programs  
2             for the management and preservation of air, water, wetlands, land, energy ,  
3             climate change, and other environmental issues;  
4  
5       **G.**     Under the direction of the Executive, negotiate intergovernmental agreements,  
6             including but not limited to, site remediation agreements, water quality  
7             agreements, and/ or permitting conditions, with tribal, federal, state or local  
8             governments and their political subdivisions, and agreements with private entities,  
9             subject to Tribal Council approval;  
10  
11       **H.**     Establishment of procedures and regulations as may be necessary in accordance  
12             with duties and authorities of this Statute, subject to the approval of the Executive  
13             and the Environmental Commission and Tribal Council where necessary under  
14             the LTBB Constitution;  
15  
16       **I.**     Develop five-year strategic plan and annual budget for Department activities.  
17             Annual budget and all Department activities should be consistent with Strategic  
18             Plan.  
19  
20       **J.**     Hire and employ appropriately trained and/or certified staff as may be necessary  
21             in accordance with the duties, powers and responsibilities of this Statute;  
22  
23       **K.**     Provide education and outreach to LTBB Citizens on environmental issues,  
24             science and resources.  
25  
26

27       **Chapter 4. Wetlands Protection and Management**

28       **Chapter 5. [Reserved]**

29       **Chapter 6. Solid Waste Disposal**

30       **Chapter 7.**

33       **SECTION VI.           SAVINGS CLAUSE**

34  
35             In the event that any phrase, provision, part, paragraph, subsection or section of this  
36     statute is found by a court of competent jurisdiction to violate the Constitution of the Little  
37     Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or  
38     section shall be considered to stand alone and to be deleted, the entirety of the balance of the  
39     statute remain in full and binding force and effect.  
40

41       **SECTION VII.       EFFECTIVE DATE**



Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first, or, if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

## CERTIFICATION

DRAFT